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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
In re:

Keith Guerzon,  
  
Debtor

Case No. :14-22171 (RDD)

Chapter 11

-----X

**AMENDED DISCLOSURE STATEMENT**

KEITH GUERZON., debtor and debtor-in-possession (the “Debtor”) submits this Disclosure Statement (the “Disclosure Statement”), pursuant to Section 1125 of Title 11 of the United States Code (the “Code”), in connection with approval and Confirmation of the Debtor’s accompanying Plan of Reorganization of even date (the “Plan”). Unless otherwise defined, all capitalized terms contained in the Plan shall have the same meaning for purposes of this Disclosure Statement. The Plan has been filed with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”). By Order of the Court after notice and a hearing, approved this Disclosure Statement as containing “adequate information” of a kind, and in sufficient detail, to enable a hypothetical reasonable investor typical of the Debtor’s creditors to make an informed decision whether to accept or reject the Plan.

Accompanying this Disclosure Statement are copies of the following documents (Exhibits A, B, and C):

- A. The Plan;**
- B. Current Balance Sheet and Liquidation Analysis of the Debtor; and**
- C. Financial Projection of the Debtor.**

### **PLAN SUMMARY**

The Plan is designed as a mechanism for the reorganization of Debtor. The Debtor is an individual who is employed in an executive capacity for a company that is engaged in excavation with headquarters in Stamford, CT. The Debtor will make payments to the holders of Allowed Claims in the classes set forth herein and will devote his net disposal income to the distributions to the Unsecured Creditors for a period of five years. Pursuant to the Plan, there will be four Classes of creditors as follows:

**Class 1:** shall consist of all Allowed Priority Claims.

**Class 2 A:** shall consist of the Allowed Secured Claims on Debtor's Residence

**Class 2 B:** shall consist of the secured claim on Debtor's automobile.

**Class 3:** shall consist of all Allowed Unsecured Claims.

In accordance with Section 1123(a)(1) of the Code, Administrative Expense Claims and Priority Tax Claims have not been classified and thus are excluded from the foregoing Classes.

### **THE CONFIRMATION PROCESS**

#### **The Confirmation Hearing**

Pursuant to Section 1128 of the Code, the Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan on October 26, 2016 at 10:00 a.m., prevailing New York time (the "Confirmation Hearing Date"), before the Honorable Robert D. Drain at the United States Bankruptcy Courthouse, 300 Quarropas Street, White Plains, New York 10601. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be filed and served so as to be received on or before five days prior to the Confirmation Hearing Date in the manner described

below under "Requirements for Confirmation."

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of the Bankruptcy Code have been satisfied. The Debtor believes that the Plan satisfies all applicable requirements of Section 1129(a).

### **The Purpose of this Disclosure Statement**

This Disclosure Statement and the accompanying ballot are being furnished to the Debtor's known creditors pursuant to section 1125(b) of the Bankruptcy Code in connection with a solicitation of acceptances of the Chapter 11 Plan. The Plan is incorporated herein by reference.

### **DISCLAIMER**

**NO PERSON MAY BE GIVEN ANY INFORMATION OR MAKE ANY REPRESENTATIONS NOT CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THAT DATE. ALL CREDITORS SHOULD READ CAREFULLY AND CONSIDER FULLY THE DISCLOSURE STATEMENT BEFORE VOTING FOR OR AGAINST THE PLAN.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT, LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS THE EQUIVALENT OF A STATEMENT MADE IN FURTHERANCE OF SETTLEMENT NEGOTIATIONS.**

**THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN PROVISIONS OF THE PLAN, STATUTORY PROVISIONS, DOCUMENTS RELATED TO THE PLAN, EVENTS IN THE DEBTOR'S CHAPTER 11 CASE, AND FINANCIAL INFORMATION.**

**ALTHOUGH THE DEBTOR BELIEVES THAT THE PLAN AND RELATED DOCUMENT SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS. EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED, FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED FROM THE DEBTOR'S BOOKS AND RECORDS AND PUBLIC PLEADINGS. ALTHOUGH DILIGENT EFFORTS HAVE BEEN MADE TO PRESENT ACCURATE AND COMPLETE INFORMATION, THE DEBTOR IS UNABLE TO WARRANT OR REPRESENT THAT**

**THE INFORMATION IS WITHOUT SOME INACCURACY OR OMISSION.**

**THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN.**

**THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTOR OR ANY OTHER PARTY, NOR SHALL IT BE CONSTRUED TO BE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST THE DEBTOR. ANY VALUE GIVEN AS TO ASSETS OF THE DEBTOR IS BASED UPON AN ESTIMATION OF SUCH VALUE. YOU ARE URGED TO CONSULT YOUR OWN COUNSEL AND FINANCIAL AND TAX ADVISORS IF YOU HAVE ANY QUESTIONS OR CONCERNS REGARDING TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN ON HOLDERS OF CLAIMS.**

**THE DISCLOSURE STATEMENT ORDER, A COPY OF WHICH ACCOMPANIES THIS DISCLOSURE STATEMENT, SPECIFIES THE DEADLINES, PROCEDURES, AND INSTRUCTIONS FOR VOTING TO ACCEPT OR REJECT THE PLAN AND FOR FILING OBJECTIONS TO CONFIRMATION OF THE PLAN. A FORM BALLOT FOR VOTING ON THE ACCEPTANCE OR REJECTION OF THE PLAN IS ALSO PROVIDED HEREWITH TO EACH HOLDER ENTITLED TO VOTE. EACH HOLDER OF A CLAIM ENTITLED TO VOTE ON THE PLAN SHOULD READ THE DISCLOSURE STATEMENT, THE PLAN AND THE DISCLOSURE STATEMENT ORDER IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN.**

### **Voting Instructions**

**Generally.** The Debtor has sent a ballot with voting instructions to all creditors entitled to vote to accept or reject the Plan, along with the Plan and a copy of this Disclosure Statement, which has also been sent to all known creditors. Creditors entitled to vote should read the ballot carefully before completing, signing, and returning the ballot to the undersigned counsel.

The Plan can be confirmed by the Bankruptcy Court and thereby made binding on all creditors if accepted by creditors that are the holders of two-thirds in amount and more than one-half in number of Allowed Claims in each Impaired Class who actually vote on the Plan, if any. In the event the requisite acceptances are not obtained, and as explained in more detail below, the Bankruptcy Court may nevertheless confirm the Plan if (i) the Bankruptcy Court finds that the Plan

accords fair and equitable treatment, and does not discriminate unfairly, with respect to the Class rejecting it and (ii) at least one impaired Class has accepted the Plan determined without considering the acceptances of any insider, and the Plan otherwise satisfies the requirements of Section 1129(a) of the Code.

**As the preceding paragraph makes evident, a successful reorganization depends upon the receipt of a sufficient number of ballots accepting the Plan. YOUR VOTE IS THEREFORE EXTREMELY IMPORTANT. Creditors should timely exercise their right to vote to accept or reject the Plan, if they are entitled to vote.**

**Deadline for Returning Ballots.** The Bankruptcy Court has directed that, to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be completed, signed, and received by counsel for the Debtor no later than five days before the Confirmation Hearing Date at 5:00 p.m. at the following address:

Bronson Law Offices, P.C.  
480 Mamaroneck Ave.  
Harrison, NY 10528  
Attn: H. Bruce Bronson

**Voting Questions.** If you have any questions regarding the provisions or requirements for voting on the Plan or require assistance in completing your ballot, you may contact Debtor's counsel, H. Bruce Bronson, Esq. at 914-269-2530 or by email at [hbb Bronson@bronsonlaw.net](mailto:hbb Bronson@bronsonlaw.net).

### **INTRODUCTION**

Prior to the bankruptcy Petition Date (and continuing to date), the Debtor has been employed as a key executive for a company that performs excavation services for the public (the "Business"). While Debtor is not an owner of the Business, his services are critical to the successful operation of the Business. Conversely, when the Business experienced a downturn around 2009, Debtor's salary was cut resulting in Debtor falling behind on his mortgage payments and finding himself with insufficient funds to pay taxes and cover all of his expenses.

Debtor filed for Chapter 13 on February 7, 2014, and proceeded to make his trustee

payments and mortgage payments. Jeffrey L. Sapir, Esq., served as the Chapter 13 trustee. Debtor stripped a second mortgage pursuant to *In re Pond*, 252 F.3d 122 (2nd Cir. 2001), and engaged in loss mitigation with respect to the first mortgage loan under General Order M-413.

Unfortunately, loss mitigation failed after many months of furnishing documents to the lender, due ostensibly to the lender's investor not allowing modifications. Further, it became obvious that Debtor exceeded Section 109(e) of the Code's debt limits for Chapter 13.

Debtor converted to Chapter 11 on January 7, 2015 pursuant to Court order (ecf docket no.:29).

Debtor believes that his creditors will realize more of a return on their Claims if Debtor is allowed to reorganize through Chapter 11. Under the Plan the Allowed Secured Claims will be paid in full, and the Allowed Unsecured Creditors will receive more than they would have in a Chapter 7 liquidation.

The Debtor resides with his wife, who does not work, at 18 Bayberry Road, Elmsford, NY 10523 (the "Residence"). Debtor owns the Residence with his wife by tenancy by the entireties. The Residence has been appraised at \$865,000 and is in arrears approximately \$185,000.

#### **SIGNIFICANT EVENTS DURING CHAPTER 11 CASE**

Debtor has remained employed since the filing of the bankruptcy case and has experienced an increase in income due to the Business having recently contracted for a significant amount of new work. Debtor expects further increases in income and bonuses, as well as support for the Plan from his employer. The successful *Pond* motion was granted while the Debtor was in Chapter 13 and such order by its terms remains effective in this Chapter 11 case as long as the Plan is performed. Since Conversion, Debtor has filed all of his operating reports and is current paying the U.S. Trustee.

The Claims register shows duplicative filings of several Claims including three American

Express Claims and the Claim of Navient Solutions, Inc. Debtor will object to these duplicate Claims.

### **PLAN SUMMARY**

#### **UNCLASSIFIED ADMINISTRATIVE EXPENSE CLAIMS, U.S. TRUSTEE FEES AND PRIORITY TAX CLAIMS**

Pursuant to section 1123(a)(1) of the Code, the Plan does not classify Administrative Expense Claims and Priority Tax Claims, which shall be afforded the following treatment:

1. **Administrative Expense Claims.** All Allowed Administrative Expense Claims shall be paid in full in Cash on the later of the Effective Date, and entry of an order of the Bankruptcy Court allowing the same, unless otherwise agreed upon by the parties. The primary Administrative Expense Claims consist of professional fees and expenses for the Debtor's general bankruptcy counsel, Bronson Law Offices, P.C. Professional fees and expenses comprising Administrative Expense Claims are to be paid pursuant to approved fee applications upon notice and hearing.
2. **Priority Tax Claims.** Allowed Priority Tax Claims shall be paid in full in cash over a period commencing on the date of the order for Chapter 11 relief (January 7, 2015) and ending on the date that is five (5) years from that date, in equal monthly installments bearing interest as provided in their respective proofs of claim. The Internal Revenue Service has filed a Priority Tax Claim in the amount of \$100,392.82, bearing interest at the rate of 4%. The State of Connecticut has filed a Priority Tax Claim for in the amount of \$19,464.00, bearing interest at the rate of 12% per annum. Monthly payments on Allowed Priority Claims will be made as set forth below by the Debtor/Reorganized Debtor (assuming an October 1, 2016 Effective Date):

<b>Claimant</b>	<b>Total Claim</b>	<b>Interest (per annum)</b>	<b>Monthly Payment (including interest)</b>
IRS (POC 4-4)	\$100,392.82	4%	\$2,749.40
CT Tax (POC 13-1)	\$19,464.04	12%	\$ 605.00
		<b>Total:</b>	\$3,354.40

3. U.S. Trustee Fees. Any unpaid U.S. Trustee Fees shall be paid on the Effective Date.

### **CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

1. **Class 1-Allowed Priority Claims.** Class 1 consists of all Allowed Priority Claims, other than Priority Tax Claims.

**Treatment-** The Allowed Priority Claims, if any, shall be paid in full in Cash on the Effective Date. There are not expected to be any Allowed Priority Claims, other than Priority Tax Claims which are not included in this class.

**Right to Vote.** Class 1 is not Impaired under the Plan and is not entitled to vote to accept or reject the Plan.

2. **Class 2-Allowed Secured Claims.** Class 2 consists of all Allowed Secured Claims, with Class 2 A containing the Mortgage and Mortgage Arrears on the Residence and Class 2 B containing the loan secured by Debtor's car.

**Treatment-**Class 2 A-The Allowed Claims made by the first mortgage on the Residence payable to HSBC Bank USA, Natl Assoc. as Trustee with a principal amount of \$871,883, will be paid pursuant to the contract rate of \$5,349.46 per month for principal and interest, plus escrow for tax and insurance of approximately \$1,636.95 per month (subject to increase or decrease). The mortgage arrears on the Residence will be payable to HSBC Bank USA, Natl Assoc., as Trustee in the amount of \$184,153 over the balance of the term of the mortgage on the Residence which is approximately 21 years, resulting in a payment of approximately \$730.77 per month, bearing no

interest.

The Class 2 B Allowed Claims consisting of the auto loan payable to Hudson Valley Federal Credit Union will be paid at the contract rate of \$749.34 per month (Claim No.:2-1).

**Right to Vote.** Class 2 A is Impaired under the Plan and is entitled to vote to accept or reject the Plan. Class 2 B is not Impaired under the Plan and is not entitled to vote to accept or reject the Plan.

**3. Class 3-Allowed Unsecured Claims.** Class 3 Allowed Unsecured Claims consist of the following, subject to reduction by agreement of the parties:

<b>Claimant</b>	<b>POC No.</b>	<b>Claim</b>	<b>Amount to be paid</b>
IRS (unsecured)	4-4	\$3,524.31	\$458.14
Second Round Limited Partner.	1-1	\$9,816.47	\$1,276.14
CERASTES, LLC	3-1	\$1759.33	\$228.71
Quantum3 Group	5-1	3,407.41	\$442.96
Premier /Charter 6261	6-1	\$541.90	\$70.45
Premier /Charter 7601	7-1	\$589.61	\$76.65
Capital One Bank 5927	8-1	3,078.35	\$400.19
Sprint Corp.	10-1	\$129.89	\$16.89
Amex #1008	12-1	\$16,801.00	\$2,184.13
Wells Fargo 2 <sup>nd</sup> Mortgage	14-1	\$100,515.39	\$13,067.13
Portfolio Recov Cap One	15-1	\$2,530.99	\$329.03
Amex #1006	16-1	\$17,292.89	\$2,248.08
Portfolio Recov Cap One-2693	17-1	\$2,380.99	\$309.51
Amex #1007	18-1	\$7,128.25	\$926.67
Navient Solutions	23-1	\$256,115.87	33,295.06
	<b>Total:</b>	\$425,312.92	55,329.74

**Treatment-**The Class 3 Unsecured Claims will be paid from net disposable income of the Debtor/Reorganized Debtor on a monthly basis over 5 years in an amount equal to 13% of the Allowed Unsecured Claims (see Projected “Disposable Income” Test on page 14).

**Right to Vote.** This class is Impaired and entitled to vote to accept or reject the Plan.

### **IMPLEMENTATION OF THE PLAN**

Payments to holders of Allowed Claims under the Plan will be made by the Debtor/Reorganized Debtor from (a) Cash on hand as of the Effective Date, (b) Cash realized from the Debtor’s/Reorganized Debtor’s earnings following the Effective Date, and (c) Cash contributed or loaned by third parties. Professional fees for services rendered and expenses incurred by the Debtor’s attorneys subsequent to the Effective Date in connection with the Plan or the Debtor’s/Reorganized Debtor’s chapter 11 case, may be paid by the Debtor without prior court approval, to the extent that Section 1123(a)(6) of the Code is applicable.

### **PROVISIONS GOVERNING DISTRIBUTIONS**

**1. Disbursements.** All distributions under the Plan shall be made by the Debtor/Reorganized Debtor.

**2. Rights and Powers of the Debtor.** The Debtor/Reorganized Debtor shall be empowered to (i) execute all agreements, instruments and other documents necessary to perform its duties under the Plan, (ii) direct that all distributions contemplated by the Plan be made, (iii) prosecute, settle and enforce any objections or other causes of action on behalf of the Debtor’s estate, and (iv) exercise such other powers as may be deemed necessary and proper to implement the Plan.

**3. Claim Objection Deadline.** Unless otherwise ordered by the Bankruptcy Court, only the Debtor shall have standing to file and prosecute objections to Claims. All such objections

shall be filed and served no later than 90 days after the Effective Date in accordance with the applicable provisions of the Code and Bankruptcy Rules.

**4. No Distribution Pending Allowance.** Notwithstanding any other provision of the Plan, no payment or distribution shall be made with respect to any portion of a Disputed Claim until such Disputed Claim becomes an Allowed Claim by stipulation or order of the Bankruptcy Court. Instead, any monies that otherwise would be paid if a Disputed Claim were Allowed shall be retained by the Debtor/Reorganized Debtor until such time as the Claim is finally Allowed at which time such withheld Cash shall be paid to the holder of such Allowed Claim.

**5. Undeliverable Distributions.** If a distribution to the holder of any Allowed Claim is returned as undeliverable, no further distribution hereunder shall be made to such creditor unless such creditor notifies the Debtor in writing of its correct address. Any undeliverable distribution shall revert to the Debtor. Debtor shall make reasonable efforts to locate holders of Allowed Claims.

#### **MODIFICATION AND REVOCATION OF THE PLAN**

The Plan may be altered, amended or modified by the Debtor at any time before the substantial consummation of the Plan, as provided in Sections 1101(a) and 1127 of the Code and Bankruptcy Rule 3019, which authorizes the proponent of a plan of reorganization to modify such plan at any time prior to confirmation of the plan so long as the plan, as modified, continues to meet certain technical requirements.

#### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

**Executory Contracts and Unexpired Leases.** To the extent the Debtor is a party to an executory contract or unexpired lease which has not otherwise been assumed or rejected prior to the Effective Date, the Confirmation Order shall constitute an Order authorizing the assumption of such Executory Contract or unexpired lease pursuant to Section 365 of the Code. In the event

any lease is to be assumed that is not paid currently, Debtor will as a condition of assumption cure the lease by making payment of the amounts owed. Any party objecting to the assumption or cure amount shall have until ten days prior to the Confirmation Hearing Date to oppose such assumption or cure amount. Debtor is not aware of any leases or executory contracts to which he is a party.

### **RETENTION OF JURISDICTION**

The Plan contains provisions providing for the retention of jurisdiction by the Bankruptcy Court to primarily enforce the Plan and implementation thereof through the sale of the Property as well as to determine all other matters pending on the date of confirmation.

### **REQUIREMENTS FOR CONFIRMATION**

Notwithstanding the entry of the Confirmation Order, the Bankruptcy Court shall retain jurisdiction until the bankruptcy case is closed to perform the following actions:

- (a) Ensure that the Plan is fully consummated;
- (b) Resolve all matters arising under or relating to the Plan;
- (c) Allow, disallow, determine, liquidate or classify, any secured or unsecured claims;
- (d) Grant or deny all applications for allowance of compensation and reimbursement of expenses by the professionals retained in the bankruptcy case;
- (e) Resolve any motions or applications still pending prior to the Effective Date;
- (f) Enter such orders as may be necessary or appropriate to implement or consummate the provision of the Plan and all contracts, deeds, instruments made or created in furtherance of the Plan or to enforce all orders, judgments and rulings entered in connection with the bankruptcy case; and
- (g) Enter a Final Decree concluding the bankruptcy case.

## **ACCEPTANCE BY THE IMPAIRED CLASSES**

Under the Code, the Plan may be confirmed if each impaired Class of Claims accepts the Plan and the Plan satisfies Section 1129 of the Code. A Class is impaired if the legal, equitable or contractual rights attaching to the claim of that Class are modified other than by curing defaults and reinstating maturities or by payment in full in Cash. Classes 1, 3 and 4 are impaired and will be entitled to vote to accept or reject the Plan.

The Code defines acceptance of a plan by a class of claims as acceptance by the holders of two-thirds in dollar amount and a majority in number of claims of that Class who actually vote to accept or reject the Plan.

### **Other Plan Requirements for Confirmation**

At the Confirmation Hearing in addition to reviewing the balloting (if any), the Bankruptcy Court will determine whether the requirements of Section 1129(a) of the Code have been satisfied, in which event the Bankruptcy Court will enter an order of Confirmation of the Plan. These requirements include determinations by the Bankruptcy Court that: (i) the Plan has classified Claims in a permissible manner, (ii) the contents of the Plan comply with various technical requirements of the Code, (iii) the Debtor has proposed the Plan in good faith, (iv) the Debtor has made disclosures concerning the Plan that are adequate and include information concerning all payment made or promised in connection with the Plan, (v) the Plan is in the “best interest” of all creditors, in that it provides a better recovery than a liquidation under Chapter 7 of the Code, (vi) the Plan is feasible, and (vii) the Plan has been accepted by the requisite number and amount of creditors in each class entitled to vote on the Plan or that the Plan may be confirmed without such acceptances. The Debtor believes that all of these conditions have been or will be met prior to the Confirmation Hearing.

**Best Interest Test.** The so-called “best interest” test requires that each impaired creditor

either (a) accepts the Plan or (b) receives or retains under the Plan property of a value, as of the Effective Date of the Plan, that is not less than the value such entity would receive or if the Debtor were to be liquidated under Chapter 7 of the Code.

Without Plan confirmation, a Chapter 7 trustee may be appointed to attempt to sell the Debtor's assets. The Debtor's post-Petition Date income is not available to creditors in a Chapter 7 case, because, unlike in Chapter 11 and under the Plan, it is not property of the bankruptcy estate in a Chapter 7 case. The Debtor's non-exempt assets have no value and accordingly the Debtor concludes that the Plan provides a recovery, with a present value in an amount substantially greater than if a Chapter 7 trustee were appointed.

**Feasibility.** For the Plan to be confirmed, it must be demonstrated that consummation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor. Since the Debtor earns sufficient wages to carry out the Plan and the Debtor's income is increasing, the Debtor will likely be able to carry out the Plan.

Exhibit "B" sets forth a liquidation analysis. The analysis shows that the creditors are receiving at least as much as they would have in a hypothetical Chapter 7 case.

#### **Projected "Disposable Income" Test.**

Pursuant to Section 1129(a)(15)(B) of the Code, if the holder of an Allowed Unsecured Claim objects to the confirmation of the Plan, the Debtor will be required to demonstrate that the value of the property to be distributed under the Plan is not less than his projected disposable income for the five (5) year period following the Effective Date. Based upon the projections attached to this Disclosure Statement as Exhibit C, Debtor has met the Projected "Disposable Income" Test by paying an amount equal to 13% of the Class 3 Allowed Unsecured Claims

**Confirmation Without the Acceptance of Each Impaired Class.** In the event that all impaired classes do not accept the Plan, the Bankruptcy Court may nevertheless confirm the Plan

under Section 1129(b) at the Debtor's request if (i) all other requirements of section 1129(a) of the Bankruptcy Code are satisfied, (ii) at least one impaired Class of Claims votes to accept the Plan without regard to any vote cast on account of a Claim held by "insiders" (as defined in the Bankruptcy Code) and (iii) as to each impaired Class which has not accepted the Plan, the Bankruptcy Court determines that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to such non-accepting Class.

A plan "does not discriminate unfairly" if the legal rights of a non-accepting class are treated in a manner that is consistent with the treatment of other classes whose legal rights are similar to those of the non-accepting class, and no class receives payments in excess of that which it is legally entitled to receive for its claims or Interests. The Debtor believes that the Plan meets these tests.

#### **FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

Each holder of a claim or interest is strongly urged to consult with its own tax advisor regarding the federal, state, local and foreign tax consequences of the Plan. The Debtor is not providing any tax advice to creditors.

#### **DISCHARGE OF DEBTS**

Confirmation of the Plan does not discharge any debt provided for in this Plan until the Bankruptcy Court grants a discharge on completion of all payments under this Plan, or as otherwise provided in Section 1141(d)(5) of the Code. The Debtor will not be discharged from any debt excepted from discharge under Section 523 of the Code, except as provided in Rule 4007 of the Federal Rules of Bankruptcy Procedure.

#### **LIMITATION OF LIABILITY; INJUNCTION**

In accordance with Section 1125(e) of the Bankruptcy Code, upon the Effective Date, neither the Debtor nor his counsel or agents shall have incurred or shall incur any liability to any

holder of a Claim or any other Person for any act or omission in connection with, or arising out of, the Disclosure Statement, the pursuit of approval of the Disclosure Statement, the pursuit of Confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence.

The Debtor will be seeking an injunction protecting the Debtor/Reorganized Debtor and his Estate and assets, except as provided in the Plan, until the entry of an order by the Court granting the Debtor a discharge upon performance of all his duties and obligations under the Plan. The injunction will be sought because under the Bankruptcy Code [11 U.S.C. § 1141(d)(5)] where, as here, the debtor in a Chapter 11 case is an individual, confirmation of the Plan does not discharge any debt provided for in a plan until the Court grants a discharge upon completion of all payments under a plan. Therefore, at the Confirmation Hearing the Debtor will request the Court to enter a Confirmation Order providing that, as of the Confirmation Date, as to every holder of debt or Claims against the Debtor, the holders of such debt or Claims shall be enjoined from interfering with the Debtor's/Reorganized Debtor's ability to carry out the terms of the Plan. The order will further provide that in the event of default by the Debtor/Post-Confirmation Debtor under the Plan, a Claimant may make the appropriate applications to the Court seeking relief from such injunction.

### **ADDITIONAL INFORMATION**

Requests for information and additional copies of this Disclosure Statement, the Ballots and the other materials delivered together herewith and all deliveries, correspondence and questions, as the case may be, relating to the Plan should be directed to the Debtor's counsel, Bronson Law Offices, P.C., 480 Mamaroneck Ave., Harrison, NY 10528, attn.: H. Bruce Bronson, Esq. at 914-269-2530; hbb Bronson@bronsonlaw.net.

**DATED:** Harrison, New York  
September 12, 2016

By: /s/ Keith Guerzon  
Keith Guerzon

BRONSON LAW OFFICES, P.C.

By: /s/ H. Bruce Bronson  
H. Bruce Bronson  
Bankruptcy Counsel to the  
Debtor and Debtor-in-Possession

**EXHIBIT A  
PLAN**

**(NOT INCLUDED IN DOCKETED FILE)**

## EXHIBIT B

### CHAPTER 7 LIQUIDATION ANALYSIS

ASSETS	<u>Estimated Value (at Confirmation)</u>	<u>Estimated Liquidation Value</u>
Cash in Dip Accounts	\$10,000	Exempt
Real Property	\$ 0	\$ 0
Auto	\$ 0	\$ 0
Home furnishings, Clothing and watch	<u>\$ 5,000</u>	<u>Exempt</u>
<b>Total Estimated Available for Creditors</b>		<b>\$ 0</b>
 LIABILITIES		
Priority Tax Claims	\$119,856.86	
Estimated CH 7 Commissions and Professional Fees	\$20,000	
<b>Total Available for Allowed Unsecured Claims</b>		<b>\$ 0</b>

Accordingly, since Debtor has no non-exempt assets, any distribution to unsecured creditors is better than what they would have received in a hypothetical sale of non-exempt assets.

**EXHIBIT C**  
**DEBTOR'S FIVE YEAR PROJECTIONS**

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]